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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/903,350	07/11/2001	Eric Lawrence Barsness	ROC920010125US1	9578

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EXAMINER

VU, NGOC K

ART UNIT PAPER NUMBER

2611

DATE MAILED: 06/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/903,350

Applicant(s)

BARSNESS ET AL.

Examiner

Ngoc K. Vu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-47 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Response to Arguments***

1. Applicant's arguments with respect to claims 1-47 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berezowski et al. (US 20020056087 A1).

Regarding claim 1, Berezowski discloses a method for providing viewership information (audience information) to a plurality of television viewers, comprising:

collecting viewership data of a plurality of viewers, wherein the viewership data (audience information) comprises a plurality of counts (i.e., percentages or numbers of users) corresponding to a plurality of time intervals (i.e., time slots) for each program, and wherein each count represents a number of viewers of a respective program during a respective time interval (i.e., percentage represents a number of users watched a particular program during a particular time slot – see 0038-0040, 0054 and 0074);

processing the viewership data to provide on-screen interface information (i.e., providing audience information in suitable format for displaying – see 0043, 0040); and

transmitting, to a plurality of end-user receivers, the on-screen interface information and data for an electronic program guide, wherein the on-screen interface information is viewable in one graphical representation (605 – see figure 6) of the plurality of counts displayed along with each respective program entry displayed by the electronic program

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guide (i.e., "Ch. 2 CBS", "Mad About You", "8:00-8:30 pm", "TV PG") on displays connected to the plurality of end-user receivers (see 0038-0040; 0074, 0079, 0093 and figures 6-7).

Regarding claim 2, Berezowski discloses transmitting data representing an interest level of the plurality of viewers in a particular program currently airing, wherein the interest level is calculated based on an amount of time spent by the plurality of viewers watching the particular program (see 0102).

Regarding claim 3, Berezowski discloses transmitting data representing a growth rate of viewers for a particular program (see 0073).

Regarding claim 4, Berezowski discloses that the viewership data is collected from at least a defined group of the plurality of end-user receivers (i.e., a group of users in a particular zip code or a specific area – see figure 16 and 0089).

Regarding claim 5, Berezowski shows that the plurality of viewers is at least a portion of the general television-viewing public (see figure 16).

Regarding claim 6, Berezowski shows that the on-screen interface information comprises historical viewership information (1420) and current viewership information (1405), wherein each of the historical and the current viewership information is viewable utilizing one or more respective graphical representations (see figure 14).

Regarding claim 7, Berezowski discloses providing group information comprising group members of the defined group (number of viewers in the defined zip code watching or recording a program - see figure 16).

Regarding claim 8, Berezowski discloses providing group information indicating how many members of the defined group are watching a program (i.e., 30% of viewers in the defined zip code watching or recording I love Lucy program - see figure 16).

Regarding claim 9, Berezowski discloses providing group information indicating a group rating for a program (i.e., audience information illustrated in pie chart indicating a group of viewers in a specific area watching I love Lucy program - see figure 16 and 0073).

Regarding claim 10, Berezowski discloses providing group information (identifying information, i.e., user name – see 0089, 0091) indicating which members of the defined group are watching a program.

Regarding claim 11, Berezowski teaches that the members are identified by extracting member identification information from the viewership data; and referencing a database (within 150) containing group information (see 0053, 0089).

Regarding claim 12, Berezowski shows that the on-screen interface Information includes on-screen program guide formatting information (see figures 6-7).

Regarding claim 13, Berezowski shows that the data for the electronic program guide is utilized to display an on-screen program guide comprising programming information for a plurality of television channels (figure 7 shows a plurality of channels in program guide 720 by scrolling up or down for viewing programming information for each channel – see figure 7).

Regarding claim 14, Berezowski discloses that the on-screen interface information is transmitted from a television program provider servicing the plurality of viewers (see 0038-0039).

Regarding claim 15, Berezowski discloses that the television program provider is one of a cable provider and a satellite provider (see 0036).

Regarding claim 16, Berezowski discloses a signal processing unit (200 – see figure 3) for processing television signals, comprising:

a first connector (within 260 – figure 3) for receiving a video signal (250) transmitted from a remote provider (distribution facility);

a second connector (within 260 – see figure 3) for receiving a viewership signal containing viewership data (audience information) collected from a plurality of viewers, wherein the viewership data comprises a plurality of counts (i.e., percentages or numbers of users) corresponding to a plurality of time intervals (time slots) for each program, and wherein each count represents a number of viewers of a respective program during a respective time interval (percentage represents a number of users watched a particular program during a particular time slot – see 0040, 0052, 0054 and 0074);

a memory (340 – see figure 3) containing an on-screen guide interface formatted with the viewership data (see 0064); and

a processor (within 260 – see figure 3) configured to format the on-screen guide interface with the viewership data (audience information is processed to be displayed with flip displays, browse displays, program listings or any other suitable display – see 0072), wherein the viewership data is formatted as one graphical (605 – see figure 6) representation of the plurality of counts displayed along with each respective program entry displayed with an electronic program guide (i.e., “Ch. 2 CBS”, “Mad About You”, “8:00-8:30 pm”, “TV PG” - see 0038-0040, 0058, 0074, 0079, 0093 and figures 6-7).

Regarding claim 17, Berezowski discloses that the remote provider is one of a cable provider and a satellite provider (see 0052).

Regarding claim 18, Berezowski teaches that the first connector and the second connector are a single common connector (receiving signal 250 via a common connector/receiver within the STB – see figure 3).

Regarding claim 19, Berezowski discloses that the viewership signal is transmitted by the remote provider (see 0054, 0038-0040).

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Regarding claim 20, Berezowski shows that the viewership data comprises viewership behavior information representing a behavior of viewers with respect to television programming (see figure 13).

Regarding claim 21, Berezowski teaches that the processor is configured to filter the viewership data (the set top box 260 receives the audience information and represent the selected audience information in response to user selection – see 0072-0073).

Regarding claim 22, Berezowski shows that the processor is configured to format an on-screen guide interface with graphical viewership at least one indicator comprising one graphical representations of a current viewership (pie chart 605 indicates number of users currently watching “Mad about you” - see figure 6).

Regarding claim 23, Berezowski teaches that the processor is configured to format an on-screen guide interface with graphical viewership Indicators using the viewership data, wherein the graphical viewership Indicators indicate viewership interest level in at least one program being transmitted in the video signal, wherein the viewership interest level is calculated based on an amount of time spent by the plurality of viewers watching the particular program (see 0102).

Regarding claim 24, Berezowski teaches that the processor is configured to format an on-screen guide interface with viewership indicators (550, 605 – see figures 5-6) using the viewership data, wherein the viewership indicators indicate a viewership growth rate in at least one program being transmitted in the video signal (see figures 5-6, 0072).

Regarding claim 25, Berezowski discloses an on-screen program guide information provider system, comprising:

a first network (120) connection with a plurality of devices (155) configured to collect viewership data (audience information) of a plurality of television viewers, wherein the

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viewership data comprises a plurality of counts (i.e., percentages or numbers of users) corresponding to a plurality of time intervals (time slots) for each program, and wherein each count represents a number of viewers of a respective program during a respective time interval (i.e., percentage represents a number of users watched a particular program during a particular time slot – see 0036, 0038-0040, 0054 and 0074) ;

a second network (180) connection with a plurality of end-user receivers (200) (see 0041); and

a processor (170) configured to:

(i) process the viewership data to provide on-screen guide formatting information (i.e., providing audience information in suitable format for displaying – see 0043, 0040);

(ii) transmit, via the second network (180) connection, the on-screen guide formatting information to the plurality of end-user receivers, wherein the onscreen guide formatting information is used by the end-user receivers to output viewership indicators to displays connected to the plurality of end-user receivers, wherein each viewership indicator comprise one graphical representation of the plurality of counts (605 – see figure 6) displayed along with each respect program entry displayed with an electronic program guide (i.e., “Ch. 2 CBS”, “Mad About You”, “8:00-8:30 pm”, “TV PG” - see 0038-0040; 0074, 0079, 0093 and figures 6-7).

Regarding claim 26, Berezowski further shows that the on-screen guide formatting information comprises an interest level of the plurality of viewers in a particular program currently airing, wherein the interest level is calculated based on an amount of time spent by the plurality of viewers watching the particular program (see 0102).



Regarding claim 27, Berezowski further discloses that the on-screen guide formatting information comprises a growth rate of viewers for a particular program (see 0073).

Regarding claim 28, Berezowski shows that the on-screen guide formatting information comprises viewership behavior information representing a behavior of the plurality of viewers with respect to television programming (see figure 13).

Regarding claim 29, Berezowski teaches that the first network connection and the second network connection are a same network connection (i.e., cable or satellite – see 0036, 0042).

Regarding claim 30, Berezowski teaches that the plurality of devices and the plurality of end-user receivers are respectively same devices (see 0054).

Regarding claim 31, Berezowski shows that the viewership indicators further comprise at least one graphical representations of a current viewership (pie chart 605 illustrates how many users are currently watching “Mad About You” - see figure 6).

Regarding claim 32, Berezowski further teaches that a television program transmission system (210) configured to transmit television program signals to the end-user receivers (see 0045-0047).

Regarding claim 33, Berezowski further teaches that an external news server (150) in communication with the processor (see 0037), wherein the processor is further configured to determine whether a particular program is significant based on at least one of a size a current viewing audience, and for each significant program, provide an alert information (550 – figure 5) to the plurality of end-user receivers (i.e., when user clicks on icon 550, a pie chart 605 is displayed to show how many users currently watching “Mad about you” - see figure 6, 0074, 0073).

Regarding claim 34, Berezowski further discloses that the viewership data is collected from at least some of the plurality of end-user receivers (see 0054).

Regarding claim 35, Berezowski teaches that each of the end-user receivers is located in different residential buildings (different locations or area – 0044, 0089).

Regarding claim 36, Berezowski shows that the plurality of viewers is at least a portion of the general television-viewing public (see figure 16).

Regarding claim 37, Berezowski further discloses that a database (within 150) containing group information and wherein the processor is configured to determine which members of a group (via identifying information, i.e., user name) are watching a program using the group information and the viewership data (see 0089, 0091).

Regarding claim 38, Berezowski further discloses that a database (within 150) containing group information and wherein the processor is configured to determine how many members of a group are watching a program using the group information and the viewership data (i.e., 30% of viewers in the defined zip code watching or recording I love Lucy program - see figure 16).

Regarding claim 39, Berezowski discloses a computer data signal embodied in a transmission medium (i.e., 250 – figure 3), comprising on-screen program guide interface information containing viewership information (i.e., audience information) of a plurality of television viewers, wherein the viewership information comprises a plurality of counts (i.e., percentage or numbers of users) corresponding to a plurality of time intervals (time slots) for each program, wherein each count represents a number of viewers of a respective program during a respective time interval wherein the on-screen interface information is readable by a plurality of receivers (200) having a network connection (i.e., cable) with a television program provider (180) and wherein viewership information is configured for formatting an onscreen

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program guide to include one graphical representation (605 – see figure 6) of the plurality of counts displayed along with each respective program entry displayed with the on-screen program guide (i.e., “Ch. 2 CBS”, “Mad About You”, “8:00-8:30 pm”, “TV PG” - see 0038-0040, 0058, 0074, 0079, 0093 and figures 6-7).

Regarding claim 40, Berezowski shows that viewership information comprises viewer behavior information indicating a behavior of the plurality of television viewers with respect to television programs (see figure 13).

Regarding claim 41, Berezowski shows that the viewership information comprises current viewership information representing viewing behavior of the plurality of television viewers currently watching a television program (i.e., number of viewers in the defined zip code are currently watching “I love Lucy” program - see figure 16).

Regarding claim 42, Berezowski shows that the viewership information comprises current viewership information (pie chart 605 indicates number of users currently watching “Mad about you” - see figure 6).

Regarding claim 43, Berezowski shows that programming information for a plurality of television channels (see figures 7 and 8).

Regarding claim 44, Berezowski shows that the viewership information comprises group information (identifying information, i.e., user name – see 0089, 0091) indicating which members of a group are watching a program.

Regarding claim 45, Berezowski shows that the viewership information comprises group information indicating how many members of a group are watching a program (i.e., 30% of viewers in the defined zip code watching or recording I love Lucy program - see figure 16).

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Regarding claim 46, Berezowski shows that the viewership information is transmitted from a television program provider (170) servicing the plurality of television viewers (see figures 2A-E).

Regarding claim 47, Berezowski discloses that the television program provider is one of a cable provider and a satellite provider (see 0042-0043).

### ***Conclusion***

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ngoc K. Vu whose telephone number is 571-272-7306. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ngoc K. Vu  
Primary Examiner  
Art Unit 2611

June 22, 2005